

REMARKS

The Requirement for Restriction

The Office has set forth the following requirement for restriction:

- (i) claims 15-20 as directed to a method of making a plant lipoxygenase with altered position specificity;
- (ii) claims 21-25 as directed to a lipoxygenase;
- (iii) claims 26-30 as directed to an isolated nucleic acid encoding a lipoxygenase;
- (iv) claims 31-40 as directed to a cell or plant comprising an isolated nucleic acid encoding a lipoxygenase;
- (v) claims 41-45 as directed to a method comprising incubating a gamma linolenic acid with lipoxygenase; and
- (vi) claim 46 as directed to a derivative of gamma linolenic acid.

Election with Traverse

Applicants hereby elect the claims of group (ii) with traverse.

Discussion of Restriction Requirement

37 C.F.R. § 1.475 states that an international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution, which each of the claimed inventions, considered as a whole, makes over the prior art.

The Office alleges that no special technical feature linking the claimed invention exists, since LOX with altered position specificity are allegedly known in the art. The Office relies on the teachings of the specification on page 1 to support this argument. However, page 1 discloses wild-type plant and mammal LOXs and the classification thereof. None of the teachings on this page, or any other page of the instant patent application for that matter, suggest that the prior art discloses a plant LOX with altered position specificity. In this

In re Appln. of Feussner et al.
Application No. 09/937,908

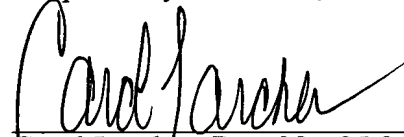
regard, claims 15-45 are unified by the special technical feature of a plant LOX with altered position specificity, and, thus, such claims meet the unity of invention requirement.

In view of the foregoing, Applicants request the withdrawal of the restriction requirement in whole or in part. Specifically, Applicants request that groups (i-v) be examined together. At the very least, Applicants request that group (i) be examined together with group (ii).

Conclusion

The application is considered to be in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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